HIGH COURT OF UTTARANCHAL AT NAINITAL
C-482 No. 918 of 2006

1. Astha, W/o Himanshu, D/o Mahesh Chandra Sharma, R/o 386 Bankhandi, Rishikesh, District-Dehradun.
2. Anupam Goswami, S/o Sri Nanu Ram Goswami, R/o Mohalla Devtan, Jwalapur, Haridwar.
3. Savita Goswami, W/o Anupam, R/o Mohalla Devtan, Jwalapur, P.S. Jwalapur, Haridwar.
4. Mahesh Chandra Sharma, S/o late Sri Bishambhar Dutt R/o 386, Bankhandi, Rishikesh, District-Dehradun.
5. Smt. Uma Sharma, W/o Mahesh Chandra Sharma, R/o 386 Bankhandi, Rishikesh, District-Dehradun.
6. Dheeraj Sharma, S/o Mahesh Chandra Sharma, R/o 386 Bankhandi, Rishikesh, District-Dehradun.
7. Atal Sharma, S/o Mahesh Chandra Sharma, R/o 386, Bankhandi, Rishikesh, District Dehradun.

.....Petitioners.

Versus

1. State of Uttaranchal.
2. Chief Judicial Magistrate, Haridwar.
3. Saurabh Sharma, S/o Sarvan Kumar Shama, R/o Pathakbara, Jwalapur, Haridwar.

.....Respondents.

Hon'ble Rajesh Tandon, J.

Heard Pankaj Miglani, counsel for the petitioners, Sri Siddharth Sah, counsel for the respondent no. 3 and A.G.A. for the State.

2. By the present petition filed under Section 482 of the Code of Criminal Procedure, the petitioners have prayed for quashing the orders dated 10th October, 2006 passed by the Chief Judicial Magistrate, Haridwar in Criminal Case No. 4243 of 2006 State Vs. Astha and others under Section 306 of the Indian Penal Code pending before the Chief Judicial Magistrate, Haridwar, whereby he has taken cognizance on the charge sheet filed against the petitioners. Petitioners have also prayed for quashing of the proceedings of Criminal Case No. 4243 of 2006 under Section 306 of the Indian Penal Code pending before the Chief Judicial Magistrate, Haridwar.

3. Briefly stated, Smt. Astha was married with Himanshu on 21.1.2005 and soon thereafter a complaint was sent on behalf of Smt. Astha to the SSP, Haridwar on 3rd August, 2006.

4. Grievance of the petitioner no. 1 is that the said complaint was never acted upon and the said complaint was lying with the SSP Haridwar. The grievance of the petitioner no. 1 is that an FIR was lodged under Section 306 of the Indian Penal Code, where the allegations have been made by one Sri Saurabh Sharma-the brother of the deceased against the applicants.

5. Since the charge sheet has already been submitted, therefore, it will not be feasible to interfere under Section 482 of the Code of Criminal Procedure in view of the law laid down by the Apex Court in ***Medchl Chemicals & Pharma (P) Ltd. Vs. Biological E. Ltd and others (2000)3 SCC 269***, to the following effect:

"19. Considering the factual aspect of the matter, we unhesitatantily state, however, that the issue involved in the matter under consideration is not a case in which the criminal trial should have been short-circuited. We, thus, without expressing any opinion on the merits of the case allow the appeal and set aside the impugned order of the High Court and resotre the complaint. The learned trial magistrate shall proceed with the complaint and dispose of the same in accordance with the law with utmost expedition. Be it clarified however that observations as above in this judgment be not taken as an expression of any opinion of ours."

6. However, while considering the case of the respondent no. 2, the Presiding Officer shall also take into consideration the complaint made by the applicants as stated above.

7. Without expressing anything on the merits of the controversy, it is directed that if the applicants no. 1, 3 and 5, who are ladies prefer the application for bail, the same shall be considered by the Presiding Officer expeditiously without any delay. So far as petitioners no. 2, 4, 6 and 7 are concerned, their bail applications shall also be considered expeditiously taking into consideration the age factor. So far as Dheeraj Sharma-petitioner no. 6 and Atal Sharma-petitioner no. 7 are concerned , as they are of tender age, the Presiding Officer shall consider their bail applications without any delay.

7. Subject to aforesaid, the petition filed under Section 482 of the Code of Criminal Procedure requires no interference and the same is disposed of.

(Rajesh Tandon, J.)

23.11.2006
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